

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
APRIL 18, 2007**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Michael Mower, Gordon Cross, Gene Dziza, Kathy Robertson, Barry Conger, Kim Fleming, Frank Dekort and Don Hines. Annie Thompson and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 25 people in the audience.

PUBLIC REVIEW

Gene Dziza reviewed the public hearing process.

**APPROVAL OF
MINUTES**

Dziza made a motion seconded by Fleming to approve the March 14, 2007 and March 21, 2007 meeting minutes.

Motion was carried by quorum.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**PRELIMINARY
PLAT/PARK
LANE
FPP 07-03**

A request by Golden Meadow Properties Inc. for Preliminary Plat approval of Park Lane Subdivision, a fifteen (15) lot commercial subdivision on 5.53 acres. Lots in the subdivision are proposed to have public water and sewer systems. The property is located at 7345 Montana Highway 35 in Bigfork.

STAFF REPORT

Anne Thompson reviewed Staff Report FPP-07-03 for the Board.

**BOARD
QUESTIONS**

Fleming asked how far the first bend of trees are from the property line to the old foundation.

Thompson wasn't sure. She compared the line of trees to the 60-ft easement on a map.

Robertson asked if a certain piece of property was purchased at the same time or a separate time from the current application.

Morrison said it was purchased at a later time.

APPLICANT

Johna Morrison, of APEC, represented the applicant. She said the applicant wants to do a 15-lot commercial subdivision. She said the property is zoned B3, and was surprised the Bigfork Land Use Advisory Committee (*BLUAC*) denied it. She said to the South is commercial and surrounding properties are owned by Anderson's Masonry. She understands the concern with trees, and thinks the trees will add value to the property by providing buffers and noise restraints. The Montana Department of Transportation (*MDT*) suggested a traffic analysis and hydrology report; the applicant is working on those. The applicant would like to rescind the idea of townhomes because of what *BLUAC* said about the application. She discussed conditions 7 and 11 and said they're the only conditions the applicant has problems with. She discussed the "will serve" letter from Bigfork Water and Sewer and said condition 10 is sufficient so condition 11 shouldn't exist.

Robertson asked about the road connected to Coverdell and if it would be possible to use it as an access.

Morrison said they didn't ask because they thought the applicant's neighbor was going to provide access but backed out at the last minute.

Robertson asked if the "will serve" letter would be sufficient enough for DEQ.

Morrison said the applicant has to hook up to Bigfork Water and Sewer because it is in the Bigfork Water and Sewer district.

Dziza asked about a 60-ft easement to the North.

Morrison said the easement could come up to the property line.

Cross asked about access off Highway 35.

Morrison said the applicant has an approach permit.

Cross asked why the applicant decided not to do townhomes.

Morrison didn't want to subject the applicants to the *BLUAC* again because the first meeting didn't go well.

Cross asked about the easement to the North.

Morrison said it's a shared approach with the neighbors.

Cross asked how the applicant plans to keep the trees.

Morrison said there are open areas in the subdivision and the trees go into the highway right-of-way. She said there is a 25-ft buffer of trees, and if they flip the water and sewer lines they could provide another 10-15 feet. On the other side of the foundation the trees are smaller and much more open. She said the idea is when someone buys a lot they have to provide an architectural design to spare as many trees as possible. If any tree can be taken out and saved and/or sold the applicant will do that.

Cross asked about strip development.

Morrison said dentist, doctors, etc. would buy the lots. Her hopes are that people buy the lots and do the townhouses and obtain the conditional use permits.

AGENCIES

None present.

**PUBLIC
COMMENT**

Patricia Wagner, 1365 LaBrant Road, represented the Bigfork Steering Committee. She said the applicant came in very unprepared for their meeting. She said Coverdell road is named after a member of the Bigfork Land Use Advisory Committee and said he was concerned about erosion of the road. She said Bigfork Water and Sewer will not give a "will serve letter" and the District will not serve. She discussed density & traffic problems and asked the Board not to approve the application.

Craig Wagner, 1635 LaBrant Road, wondered if the project is "fish or fowl". He said the application states the subdivision will be a commercial subdivision, but the applicant planned on building townhomes. He wants to know if the application is commercial or residential.

Sue Hanson, 220 Swan River Road, said the history of the property being zoned B3 is "cloudy". She said the property been a life-long project of the previous owner and the surrounding properties are very quite. Her greatest objection is the applicant trying to get around the subdivision regulations. She said there is a commercial subdivision just south of the proposal and it has 16 lots on 10 acres. This application has 15 lots on 5.5 acres,

and that's a considerable difference in the density. She handed out a letter with her comments.

**STAFF
REBUTTAL**

Thompson said having a "will serve letter" is ok at this point but when they start building they have to have a guaranteed hook up.

Dziza asked if Thompson was satisfied with her conditions.

Thompson said yes.

Fleming asked what would happen if the applicant does the first lots as commercial and the last lots as townhomes. She said if the lots were done as residential the applicant would be required to have parkland.

Thompson said conditional use permits do not require parkland.

**APPLICANT
REBUTTAL**

None.

**BOARD
DISCUSSION**

None.

**MOTION TO
ADOPT FOF FPP
07-03**

Cross made a motion seconded by Fleming to adopt Staff Report FPP 07-03 as findings-of-fact.

**BOARD
DISCUSSION**

Cross said some things need to be added to the findings-of-fact regarding the townhome situation, the BLUAC meeting, the "will serve" letter, traffic analysis, and density.

Fleming said the BLUAC discussed saving trees. She said the applicant has not sufficiently addressed how the issue with trees is going to be handled.

**MOTION TO
AMEND FOF # 2**

Fleming made a motion seconded by DeKort to amend FOF #2 to add the sentence: *The applicant has not addressed buffering and landscaping along the highway per the Bigfork Master Plan.*

The motion passed by quorum.

**MOTION TO
ADD FOF 10, 11
& 12.**

Cross made a motion seconded by Robertson to add Findings of Fact 10, 11, & 12.

10: The Bigfork Land Use Advisory Committee held a public hearing regarding this project on 3/29/07. Many concerns were raised and were noted in the minutes.

11: The Bigfork Land Use Advisory Committee voted 7-0 to recommend denial.

12. The applicant now has no intention to apply for a conditional use permit to erect town homes. The applicant is still preparing a traffic analysis and that information is not currently available.

The motion passed by quorum.

**ROLL CALL TO
ADOPT FOF**

On a roll call vote the motion passed unanimously.

**MOTION TO
DENY**

Robertson made a motion seconded by Hines adopt Staff Report FPP 07-03 and recommend **denial** to the County Commissioners.

Mower asked what basis Robertson had for recommending denial.

Robertson said density issue, the road being close to Hwy 35, the buffer issue, etc. She said the people are overwhelmingly opposed to the application and the Board needs to take that into consideration. She discussed the Master Plan.

Fleming said the kinds of businesses that would buy the lots are listed in their packets as supermarkets, banks, retail sales, etc.; that would add a lot of traffic to the area.

Conger thinks the applicant should go try again. He said the property could be developed a lot better so it pleases everyone.

Cross said he is troubled because the property is unique and anything could happen there. He doesn't blame BLUAC for doing what they did because you have to assume the worst when the worst isn't prohibited.

Dziza said the application was commercial and that fits with the zoning. He has a hard time denying the application when it conforms to zoning.

Mower said the major objection was the townhouse idea.

**ROLL CALL
TO DENY**

On a roll call vote the motion passed 6-2 with Mower and Dziza dissenting.

**PRELIMINARY
PLAT/
TOMBSTONE
FPP 06-62**

A request by Tombstone Estates, LLC for Preliminary Plat approval of Tombstone Subdivision, a 14 lot single-family residential subdivision on 20.12 acres. Lots in the subdivision are proposed to have multiple-user water and sewer systems. The property is located at 1050 Blackmer Lane.

STAFF REPORT

Anne Thompson reviewed Staff Report FPP 06-62 for the Board.

**BOARD
QUESTIONS**

Cross asked about the letter discussing the disagreement about the length of the road.

Thompson said there was some contention in measuring the road, but Staff normally measures the longest point of the road.

APPLICANT

Andy Belski, surveyor for applicant, said there is only so much you can do with a 20-acre property. He said the applicant wanted to have a fairly high-density design an average person could afford. He said in the first design you can see a straight road that is 1,000 feet long, but the second design is a loop road. He said there is potential for the property to the West to hook in. He said the entire eastern portion of the property is set aside for parkland and that works for the habitat corridor. He said 25% of the property is going to be open space. He said the applicant drilled to get water testing. He discussed the findings-of-fact.

**BOARD
QUESTIONS**

Conger asked if the cemetery plot was completely separate.

Belski said it is a separate track of a land but there is an easement provided.

Jerry Johnson, environmental consultant (used to be the County Sanitarian), said there are some areas of high groundwater. He put in 12 groundwater measuring pipes and 8 of them are in compliance. He said some areas on the property would not pass, but lots of areas will pass. He said the biggest challenge is phosphorus and nitrogen, so he had a drilling operation come in

to measure nitrates and determined level 2 septic systems would be the best. He discussed how to get rid of groundwater.

Conger asked if the DEQ application was already pending.

Johnson said no.

Conger asked what holes didn't meet the requirements.

Johnson said high groundwater sits in the open space.

Conger asked where the piping and tanks were going to go.

Johnson showed on the map where the septic tanks would go.

Conger and Johnson discussed the water issues.

Bret Bouda represented the owners of Tombstones Investors. He said they paid experts a year ago so they could find the best use of the property and the most efficient way to improve the land. He said there is approximately a one mile circle of high density around the proposed subdivision and there are two pre-approved subdivisions going in around the area. He wants owners to be local people who can afford the homes. He discussed the subdivision being in compliance with the Growth Policy. He said 25% of the property will be common area. He realizes some of the neighbors are concerned, but feels like he complies with all the regulations and wants to be able to build.

AGENCIES

None.

PUBLIC COMMENT

Sue Conklin, 1110 Blackmere Lane, said her property connects to the property. She had the property surveyed twice and it was only 20 acres so she doesn't know how the applicant came up with 20.12 acres. She said her only concern is if the septic system is going to be sitting in front of her property.

Frank Viatle, 880 Blackmere Lane, said as far as he knows water still runs downhill. He said Morning Creek flows through his property and he asked the Board to consider one home and one septic on the property. He thinks the project is absurd and he "smells money".

Ed Baldwin, 987 Blackmer Lane, lives on the north side of the property. He has an eight foot pond on his property and doesn't want it polluted from the septic systems. He discussed wildlife and passed out pictures of big game that come on his property. He said the groundwater and sewage will pollute their drinking water. The water table is way too high for this kind of development and it's too dense. He thinks the property should remain a naturally irrigated hay field.

Greg McDowel, 181 Samson Lane, said this property is familiar to him. He liked the piece of property because it didn't require any watering. He said when he is standing in water wetlands up to his knees there is obviously a problem and is the property is swampland most of the year. He discussed the wildlife corridor. He said Morning Creek goes right through the area and flows to Lake Blaine and said the property is a very environmentally sensitive area.

Ellen Horowitz, 880 Blackmer Lane, said when she was looking at the Environmental Assessment (EA) she found it was filled with flaws. She discussed Ed Baldwin's pond and said it is only 300-ft from the proposed subdivision. She said the vegetation consists mainly of grass because it's been a hay field. The EA doesn't address what else is on the property. She went over the letter she wrote to the Board.

Mike Corbit, 995 Blackmer Lane, owns 5-acres directly north of the property. He enjoys the wildlife, and said even if everything in the valley is brown, you could drive down Blackmer Lane and everything is green. He said the high water table makes everything green for a long time. He is concerned about the high groundwater because his meadow is the same elevation as the applicant's. He discussed the high water table, drinking water, and wells.

Tom Arnone, 595 Lauman Road, said the dust on Lauman Road is horrendous, which is just across the road from Blackmer Lane. He discussed what Johnson said about the high water on the property. He thinks the development is totally inappropriate for the area. He handed out maps he produced from Google Earth.

Clarence Watts, 475 Lauman Road, lives right next to the proposed development. He said when it's raining the water runs into the middle of his property. He has 40 acres and has a lot of wildlife on his property; it is a beautiful little place. He said there is a swamp in the middle of the applicant's land and he doesn't want his cows to have to drink septic water. He said the soil in the area is not made for density. He said the property is more beautiful than Glacier Park.

**STAFF
REBUTTAL**

Thompson wanted to respond to the applicant's comments on density. She doesn't think the applicant is comparing "apples to apples". She said the denser subdivisions are a couple miles away from Blackmer Lane. She said the applicant has been aware of all the conditions from the start of the project.

**APPLICANT
REBUTTAL**

Johnson had a few clarifications to make, and appreciates everyone's concern for the environment. He said none of the septic systems will be seen because they will be sub-surfaced. He said static is not an indicator of groundwater level and discussed indicators of ground water. He said the applicant knows the land is wet, but there can be land that is wet and not be a wetland. He said faster moving water equals faster dispersing of the nutrients into the ground. He said most of the people who live around the property have septic systems, and everyone who has a septic system is responsible for degrading ground water. The applicant is willing to spend \$80,000 on a septic system.

Bouda said there are two groups of people that spent more money up front to comply with all regulations. He said the issue is that they are in compliance and he respectfully disagreed with Thompson's comment about density. He said somebody always has to be the first to start developing in an area.

**BOARD
DISCUSSION**

None.

**MOTION TO
ADOPT FOF**

Fleming made a motion seconded by Hines to adopt Staff Report FPP 06-62 as findings-of-fact.

**ADD FINDINGS
OF FACT 8 & 9**

Robertson made a motion seconded by Fleming to add Findings of Fact 8 & 9.

8. There are three areas of surface water located closer to the property than Lake Blaine and are at risk of being polluted by this development. These include an on-site spring, Mooring Creek located approximately 900 feet west of the property, and an eight foot deep pond located 300 feet north of the property.

9. The proposed subdivision would access onto Blackmer Lane, a dead-end county road which in turn accesses Mooring Road, Lauman Road, and/or MT Hwy 206.

The motion was carried by quorum.

**F.O.F.
MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed unanimously.

**MOTION TO
DENY**

Fleming made a motion seconded by DeKort to adopt Staff Report FPP 06-62 and recommend **denial** to the County Commissioners.

**BOARD
DISCUSSION**

Cross appreciated the applicant putting effort into trying to work around the groundwater but unfortunately you can't move a piece of property. He said the density is inappropriate.

Conger is concerned about the groundwater but is more concerned about density and wildlife impact. He said it is an inappropriate development for the property.

Robertson said when she went to look at the property there were cotton-tail deer everywhere.

Dziza couldn't find anything he liked about the subdivision.

Thompson said the Staff was looking at more than septic systems being in the groundwater; it was houses in groundwater.

**MOTION TO
DENY**

The motion was passed unanimously.

DISCUSSION OF BYLAWS The Board discussed updating the Flathead County Planning Board Bylaws.

OLD BUSINESS The Board discussed having a workshop.

The Board talked about reviewing the subdivision regulations the Commissioners wanted reviewed.

NEW BUSINESS None.

ADJOURNMENT The meeting was adjourned at approximately 10 p.m. on a motion by Robertson seconded by DeKort. The next meeting will be held at 6:00 p.m. on May 16, 2007.

Gene Dziza, President

Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 5/23/07